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10/580,661	02/15/2007	Yoav Bar-Yaakov	0-06-112	5008

42009 7590 10/04/2011

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EXAMINER
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BUIE-HATCHER, NICOLE M

ART UNIT	PAPER NUMBER
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1767

MAIL DATE	DELIVERY MODE
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10/04/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/580,661	BAR-YAAKOV ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	NICOLE M. BUIE-HATCHER	1767	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 5) ☒ Claim(s) 1,2,4,6-10,12-21,32-36 and 40 is/are pending in the application.
- 5a) Of the above claim(s) 14-21 and 32-36 is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 1,2,4,6-10,12,13 and 40 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

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## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/02/2011 has been entered.

### ***Response to Amendment***

The amendment filed 08/02/2011 has been entered. **Claims 1, 2, 4, 6-10, 12-21, 32-36, and 40** remain pending. **Claims 14-21 and 32-36** were previously withdrawn.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 2, 4, 6-8, and 40** are rejected under 35 U.S.C. 102(b) as being anticipated by Liu et al. (US 6,043,310) as evidenced by Aono et al. (US 5,225,313).

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**Regarding claims 1, 2, 4, and 6-8**, Liu et al. discloses in Table 2, in the first and second Application Examples, a pellet (particle) formed from a polycarbonate PC (60) (impact modifier, C12/L11-13, C1/L26-33), liquid crystal polymer, LCP (1) (improves flow properties, a processing aid, C1/L34-44, C12/L11-13), polytetrafluoroethylene, PTFE(2) (includes polycarbonate, however polycarbonate is known to be an impact modifier as discussed above) (C12/L23-27), and a brominated epoxy flame retardant FR (2) (C12/18-20). In each of the Application Examples, the amount of polytetrafluoroethylene is 0.99 wt%. The pellet is prepared by extrusion (C12/L28-34). (Once the pellet, which is a solid is formed, each of the components are solidified and the fluoropolymer is coated by the flame retardant.) In view of evidence by Aono et al., TEFLON 30J is fine particles having a size of 0.1-1 microns (Table 2). Alternatively, it would have been easily envisaged to substitute PTFE(2) with PTFE(1) (TEFLON 30J) which only contains polytetrafluoroethylene (C12/L22-27).

However, Liu et al. does not explicitly disclose the pellet is antidripping. The Office realizes that all of the claimed effects or physical properties are not positively stated by the reference(s). However, the reference(s) teaches all of the claimed ingredients, claimed amounts, and substantially similar process of making. According to the original specification, polytetrafluoroethylene prevents the flame dripping of many thermoplastic materials (page 1, last paragraph). Therefore, the claimed effects and physical properties, i.e. the pellet is antidripping would inherently be achieved by a composition with all the claimed ingredients, claimed amounts, and substantially similar process of making. See MPEP § 2112.01. If it is the applicant's position that this would not be the case: (1) evidence would need to be provided to support the applicant's position; and (2) it would be the Office's position that the application

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contains inadequate disclosure that there is no teaching as to how to obtain the claimed properties with only the claimed ingredients, claimed amounts, and substantially similar process of making.

Regarding the method limitations recited in **claim(s) 40**, the examiner notes that even though a product-by-process is defined by the process steps by which the product is made, determination of patentability is based on the product itself. *In re Thorpe*, 777 F.2d 695, 227 USPQ 964 (Fed. Cir. 1985). As the court stated *in Thorpe*, 777 F.2d at 697, 227 USPQ at 966 (The patentability of a product does not depend on its method of production. *In re Pilkington*, 411 F. 2d 1345, 1348, 162 USPQ 145, 147 (CCPA 1969).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims 9, 10, 12, and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu et al. (US 6,043,310) as evidenced by Aono et al. (US 5,225,313), further in view of Kitahara et al. (US 6,503,988 B1) as evidenced by Kukdo, YDB-408, Brominated Epoxy Resin.

**Regarding claim 9**, Liu et al. discloses a pellet as shown above in claim 1.

However, Liu et al. does not disclose the flame retardant has a melting point below 300°C. Kitahara et al. teaches in Example 1, a brominated epoxy resin, YDB-408 is used as a flame retardant. The softening temperature of EPOKUKDO YDB-408 is 102-112° as evidenced by Kukdo; therefore the melting point is well below 300°C. Kitahara et al. teaches the thermoplastic resin can be polycarbonate (C5/L20-37). Liu et al. and Kitahara et al. are analogous art concerned with the same field of endeavor, namely flame or fire resistant compositions comprising polytetrafluoroethylene and thermoplastics, such as polycarbonate. It would have been obvious to one of ordinary skill in the art at the time of invention to substitute the flame retardant of Liu et al. with the flame retardant per the teachings of Kitahara et al., and the motivation to do so would have been as Kitahara et al. suggests such brominated epoxy resins are flame retardants.

**Regarding claim 10**, Liu et al. discloses a pellet as shown above in claim 1.

However, Liu et al. does not disclose the flame retardant has a melting point below 300°C. Kitahara et al. teaches in Example 1, a brominated epoxy resin, YDB-408 is used as a flame retardant. The softening temperature of EPOKUKDO YDB-408 is 102-112° as evidenced by Kukdo; therefore the melting point is well below 300°C. Kitahara et al. teaches the thermoplastic resin can be polycarbonate (C5/L20-37). Liu et al. and Kitahara et al. are

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analogous art concerned with the same field of endeavor, namely flame or fire resistant compositions comprising polytetrafluoroethylene and thermoplastics, such as polycarbonate. It would have been obvious to one of ordinary skill in the art at the time of invention to substitute the flame retardant of Liu et al. with the flame retardant per the teachings of Kitahara et al., and the motivation to do so would have been as Kitahara et al. suggests such brominated epoxy resins are flame retardants.

Although Kitahara et al. does not disclose the flame retardant is obtained from precursors having a melting point below 300°C. Regarding the method limitations, the examiner notes that even though a product-by-process is defined by the process steps by which the product is made, determination of patentability is based on the product itself. *In re Thorpe*, 777 F.2d 695, 227 USPQ 964 (Fed. Cir. 1985). As the court stated in *Thorpe*, 777 F.2d at 697, 227 USPQ at 966 (The patentability of a product does not depend on its method of production. *In re Pilkington*, 411 F. 2d 1345, 1348, 162 USPQ 145, 147 (CCPA 1969). If the product in a product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process). See MPEP § 2113.

**Regarding claims 12 and 13**, Liu et al. discloses a pellet as shown above in claim 9.

However, Liu et al. does not disclose the flame retardant has a melt viscosity lower than 10,000 cp. Kitahara et al. teaches in Example 1, a brominated epoxy resin, YDB-408 is used as a flame retardant. According to Kukdo, the equivalent MW (EEW) of EPOKUKDO YDB-408 is 690-750 which corresponds to a molecular weight of 1380-1500. According to the materials in Table 1 of the original specification, the MW of F-3020 ex DSBG is an endcapped brominated epoxy oligomer with a MW of 2,000. Since the molecular weight of the flame retardant of

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Kitahara et al. is well below this molecular weight, it is expected that the melt viscosity will be lower than 2,000 cp, absent objective to the contrary. It would have been obvious to one of ordinary skill in the art at the time of invention to substitute the flame retardant of Liu et al. with the flame retardant per the teachings of Kitahara et al., and the motivation to do so would have been as Kitahara et al. suggests such brominated epoxy resins are flame retardants.

**Claims 1, 2, 4, 6-8 and 40** are rejected under 35 U.S.C. 103(a) as being unpatentable over Georlette et al. (US 4,849,134) in view of Kitahara et al. (US 6,503,988 B1).

**Regarding claims 1, 2, 4, 6**, Georlette et al. recites in claim 5, a flame-retardant granular composition (particle) comprising one or more halogenated hydrocarbon flame retardants compounds and anti-dripping agents.

However, Georlette et al. does not disclose halogenated hydrocarbon flame retardant is a brominated epoxy resin. Kitahara et al. teaches in Example 1, a brominated epoxy resin, YDB-408 is used as a flame retardant. Georlette et al. and Kitahara et al. are analogous art concerned with the same field of endeavor, namely flame retardant compositions comprising brominated hydrocarbons as flame retardants. It would have been obvious to one of ordinary skill in the art at the time of invention to substitute the halogenated hydrocarbon flame retardant of US '134 with the flame retardant per the teachings of Kitahara et al., and the motivation to do so would have been as Kitahara et al. suggests such compounds are flame retardants (C5/L54-C6/L14).

However, Georlette et al. does not disclose a fluoropolymer. Kitahara et al. teaches the polytetrafluoroethylene fine powder as an antidripping agent (C5/L16-19). It would have been obvious to one of ordinary skill in the art at the time of invention to substitute the anti-dripping



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agent of Georlette et al. with the anti-dripping agent per the teachings of Kitahara et al., and the motivation to do so would have been as Kitahara et al. suggests polytetrafluoroethylene fine powder as an antidripping agent.

**Regarding claims 7 and 8**, Georlette et al. does not disclose the amount of the fluoropolymer in the granule. Additionally, Kitahara et al. teaches in Example 1, the amount of the fluoropolymer based on the amount of fluoropolymer to brominated epoxy resin is 1.7 wt%. It would have been obvious to one of ordinary skill in the art at the time of invention to use the amount of the antidripping agent per the teachings of Kitahara et al. in the granule of Georlette et al., and the motivation to do so would have been as Kitahara et al. suggests to in the composition with the flammable thermoplastic resin, the antidripping properties are obtained and mold-releasing properties and friction properties are improved (C5/L45-53).

Regarding the method limitations recited in **claim(s) 40**, the examiner notes that even though a product-by-process is defined by the process steps by which the product is made, determination of patentability is based on the product itself. *In re Thorpe*, 777 F.2d 695, 227 USPQ 964 (Fed. Cir. 1985). As the court stated *in Thorpe*, 777 F.2d at 697, 227 USPQ at 966 (The patentability of a product does not depend on its method of production. *In re Pilkington*, 411 F. 2d 1345, 1348, 162 USPQ 145, 147 (CCPA 1969).

**Claims 9, 10, 12, and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Georlette et al. (US 4,849,134) in view of Kitahara et al. (US 6,503,988 B1) as applied to claim 1 above as evidenced by Kukdo, YDB-408, Brominated Epoxy Resin.

**Regarding claim 9**, Georlette et al. discloses a granule as shown above in claim 1.

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However, Georlette et al. does not disclose the flame retardant has a melting point below 300 °C. As discussed above in claim 1, Kitahara et al. teaches in Example 1, a brominated epoxy resin, YDB-408 is used as a flame retardant. The softening temperature of EPOKUKDO YDB-408 is 102-112° as evidenced by Kukdo; therefore the melting point is well below 300°C It would have been obvious to one of ordinary skill in the art at the time of invention to substitute the anti-dripping agent of Georlette et al. with the anti-dripping agent per the teachings of Kitahara et al., and the motivation to do so would have been as Kitahara et al. suggests polytetrafluoroethylene fine powder as an antidripping agent.

**Regarding claim 10**, Georlette et al. discloses a granule as shown above in claim 1.

However, Georlette et al. does not disclose the flame retardant has a melting point below 300 °C. As discussed above in claim 1, Kitahara et al. teaches in Example 1, a brominated epoxy resin, YDB-408 is used as a flame retardant. The softening temperature of EPOKUKDO YDB-408 is 102-112° as evidenced by Kukdo; therefore the melting point is well below 300°C It would have been obvious to one of ordinary skill in the art at the time of invention to substitute the anti-dripping agent of Georlette et al. with the anti-dripping agent per the teachings of Kitahara et al., and the motivation to do so would have been as Kitahara et al. suggests polytetrafluoroethylene fine powder as an antidripping agent.

Although Kitahara et al. does not disclose the flame retardant is obtained from precursors having a melting point below 300°C. Regarding the method limitations, the examiner notes that even though a product-by-process is defined by the process steps by which the product is made, determination of patentability is based on the product itself. *In re Thorpe*, 777 F.2d 695, 227 USPQ 964 (Fed. Cir. 1985). As the court stated *in Thorpe*, 777 F.2d at 697, 227 USPQ at 966

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(The patentability of a product does not depend on its method of production. *In re Pilkington*, 411 F. 2d 1345, 1348, 162 USPQ 145, 147 (CCPA 1969). If the product in a product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process). See MPEP § 2113.

**Regarding claims 12 and 13**, Georlette et al. discloses a granule as shown above in claim 1.

However, Georlette et al. does not disclose the flame retardant has a melt viscosity lower than 10,000 cp. Kitahara et al. teaches in Example 1, a brominated epoxy resin, YDB-408 is used as a flame retardant. According to Kukdo, the equivalent MW (EEW) of EPOKUKDO YDB-408 is 690-750 which corresponds to a molecular weight of 1380-1500. According to the materials in Table 1 of the original specification, the MW of F-3020 ex DSBG is an endcapped brominated epoxy oligomer with a MW of 2,000. Since the molecular weight of the flame retardant of Kitahara et al. is well below this molecular weight, it is expected that the melt viscosity will be lower than 2,000 cp, absent objective to the contrary. It would have been obvious to one of ordinary skill in the art at the time of invention to substitute the flame retardant of Georlette et al. with the flame retardant per the teachings of Kitahara et al., and the motivation to do so would have been as Kitahara et al. suggests such brominated epoxy resins are flame retardants.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

**Claims 1, 2, 4, 6- 10, 12, 13, and 40** are directed to an invention not patentably distinct from claim 5 of commonly assigned U.S. Patent No. 4,849,134.

**Claims 1, 2, 4, 6, 9, 10, 12, 13, and 40** are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 5 of U.S. Patent No. 4,849,134 (referred to hereinafter as US '134) in view of Kitahara et al. (US 6,503,988 B1) as evidenced by Kukdo, YDB-408, Brominated Epoxy Resin. Claim 5 of US '134 recites a similar granular composition (particle). In Claim 5, anti-dripping agents can be used.

However, claim 5 of US '134 does not recite a fluoropolymer. Kitahara et al. teaches the polytetrafluoroethylene fine powder as an antidripping agent (C5/L16-19). In Example 1, the amount of the polytetrafluoroethylene based on the polytetrafluoroethylene and brominated epoxy resin is 1.7 wt%. US '134 and Kitahara et al. are analogous art concerned with the same field of endeavor, namely flame retardant compositions. It would have been obvious to one of ordinary skill in the art at the time of invention to substitute the anti-dripping agent of US '134 with the anti-dripping agent per the teachings of Kitahara et al., and the motivation to do so would have been as Kitahara et al. suggests polytetrafluoroethylene fine powder as an antidripping agent.

However, claim 5 of US '134 does not recite the halogenated hydrocarbon flame retardant compound is a brominated epoxy resin. Additionally, Kitahara et al. teaches in Example 1, a brominated epoxy resin, YDB-408 is used as a flame retardant. The softening temperature of EPOKUKDO YDB-408 is 102-112° as evidenced by Kukdo; therefore the melting point is well below 300°C. According to Kukdo, the equivalent MW (EEW) of EPOKUKDO YDB-408 is 690-750 which corresponds to a molecular weight of 1380-1500.

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According to the materials in Table 1 of the original specification, the MW of F-3020 ex DSBG is an endcapped brominated epoxy oligomer with a MW of 2,000. Since the molecular weight of the flame retardant of Kitahara et al. is well below this molecular weight, it is expected that the melt viscosity will be lower than 2,000 cp, absent objective to the contrary. It would have been obvious to one of ordinary skill in the art at the time of invention to substitute the halogenated hydrocarbon flame retardant of US '134 with the flame retardant per the teachings of Kitahara et al., and the motivation to do so would have been as Kitahara et al. suggests such compounds are flame retardants (C5/L54-C6/L14).

### ***Response to Arguments***

Applicant's arguments filed 05/24/2011 with respect to **claims 1, 2, 4, 6-10, 12, 13, and 40** have been considered but are moot in view of the new ground(s) of rejection. The following comment(s) apply:

A) Applicant's argument that the fluoropolymer concentrate of the invention discloses several advantages over the mixture of Kitahara, an essential one being that various species of fluoropolymer may be used (pages 4 and 5) is not persuasive. As shown above and as stated by Applicant, Kitahara teaches the PTFE. PTFE meets the claimed limitations, since instant claim 1 recites any fluoropolymer. Furthermore, in instant claim 4, polytetrafluoroethylene is one of the fluoropolymers which is recited which is in the claimed concentrate.

B) Applicant's argument that the fluoropolymer granules are melt-coated by a flame retardant (page 6) is not persuasive. The instant claims recite a solid homogeneous antidripping fluoropolymer concentrate in the form of bulk block or particles, said concentrate consisting of

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fluoropolymer granules coated by brominated epoxy resins. The manner in which the fluoropolymer granules are coated by the brominated epoxy resin does not differentiate the product itself which is fluoropolymer granules coated by a brominated epoxy resin. It is the product itself which determines patentability. The examiner notes that even though a product-by-process is defined by the process steps by which the product is made, determination of patentability is based on the product itself. *In re Thorpe*, 777 F.2d 695, 227 USPQ 964 (Fed. Cir. 1985). As the court stated *in Thorpe*, 777 F.2d at 697, 227 USPQ at 966 (The patentability of a product does not depend on its method of production. *In re Pilkington*, 411 F. 2d 1345, 1348, 162 USPQ 145, 147 (CCPA 1969). If the product in a product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process). See MPEP § 2113.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wenger et al. discloses a flame-retarded laser-markable polyester composition comprising a bromine-containing flame-retardant compound and polytetrafluoroethylene [0018-0025].

### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NICOLE M. BUIE-HATCHER whose telephone number is

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(571)270-3879. The examiner can normally be reached on Monday-Thursday with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Eashoo can be reached on (571)272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/NICOLE M BUIE-HATCHER/  
Examiner, Art Unit 1767  
9/26/2011